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SUBJECT: 2008 KUWAIT INVESTMENT CLIMATE STATEMENT SUBMISSION

REF: 07 SECSTATE 158802

¶1. Per reftel instructions, the following is Post's submission for the 2008 Kuwait Investment Climate Statement:

OPENNESS TO FOREIGN INVESTMENT

The Council of Ministers approved the implementing regulations for its current Direct Foreign Capital Investment Law -- Law No. 8/2001 - passed by the National Assembly on March 11, 2001 --, through Resolution No. 1006/1/2003 on November 1, 2003. The legislation authorizes foreign-majority ownership and 100 percent foreign ownership in certain industries including: infrastructure projects (water, power, waste water treatment or communications); investment and exchange companies; insurance companies; information technology and software development; hospitals and pharmaceuticals; air, land and sea freight; tourism, hotels, and entertainment; housing projects and urban development. Projects involving oil discovery or oil and gas production are not authorized for foreign investment and must be approved by a separate law.

The Direct Foreign Capital Investment Law promotes foreign investment in Kuwait; authorizes tax holidays of up to ten years for new foreign investors; facilitates the entry of expatriate labor; authorizes land grants and duty-free import of equipment; provides guarantees against expropriation without compensation; ensures the right to repatriate profits; and protects the confidentiality of proprietary information in investment applications, with penalties for government officials who reveal such data to unauthorized persons. New investors are protected against any future changes to the law. Full benefit of these incentives, however, is linked to the percentage of Kuwaiti labor employed by the new venture. The investor is also obliged to preserve the safety of the environment, uphold public order and morals, and comply with instructions regarding security and public health. While the Direct Foreign Capital Investment Law is on the books, foreign companies still report numerous delays in getting approval to operate in Kuwait, and the law does not appear to have changed the investment climate in any significant way.

Foreign firms still may not invest in the upstream petroleum sector, although they are permitted to invest in petrochemical joint ventures; Dow Chemical, a partner in EQUATE, is the only foreign company involved in a petrochemical joint venture. Implementing legislation brought before Parliament in January 2004 would allow for limited, controlled investment in the petroleum sector. This law was submitted specifically to allow for investment in and development of Kuwait's northern oilfields, but may be used to allow for other investment in the petroleum sector in the future. The legislation, however, is still pending and has not been brought to a vote in Parliament.

Kuwait's economy has been dominated by the state and the

nationalized oil industry since the early 1970s despite efforts by the government to diversify. The government acquired major holdings in private Kuwaiti firms -- particularly banks and insurance companies -- following stock market crashes in 1979 and 1982. After liberation from Iraq (early in 1991), the government passed a debt settlement law and purchased outstanding debts emanating from the stock market crashes and the Gulf War. Between 1995 and 1998, the government successfully divested over 50 percent of its equity holdings in private firms by selling off its full holdings in 28 firms and portions of holdings in 17 other firms, earning some US $3.2 billion. The program was suspended in 1998 because of the weakness of the Kuwait Stock Exchange, but resumed in May 2001 when the Kuwait Investment Authority sold 113 million shares (about 24 percent) of the Mobile Telecommunications Company (MTC). There were six times as many prospective buyers as could be accommodated. The sale fulfilled the government's intention to reduce its equity in MTC from 49 percent to 25 percent.

Established after the 1982 stock market crash, the Kuwait Stock Exchange (KSE) is the second largest bourse in the Arab world after Saudi Arabia's NCFEI. The KSE lists 181 Kuwaiti companies and 15 companies from other Arab States, including one Iraqi company. It reopened in 1992 following the Gulf War and has a market capitalization of US$ 142.36 billion (KD 39 billion) as estimated by December 2007, an increase of 2.1% from 2006. KSE boasts the region's first trading floor for women and is in consultations with a British firm to establish a Capital Markets Authority to serve as an independent regulatory body similar to the U.S. Securities and Exchange Commission.

The National Assembly ratified the "Indirect Foreign Investment Law" in August 2000, allowing foreigners to own 100 percent of all listed shareholding companies, except banks. The banking sector was opened under the Direct Foreign Investment Law and the Central Bank has

already granted licenses to six foreign banks. Five of them have already opened branches: BNP Paribas and HSBC, both of which began operations in 2005; Citibank and the National Bank of Abu Dhabi, which began operations in 2006; and Qatar National Bank, which began operations in 2007. Doha Bank has not yet opened a branch in Kuwait. However, while foreign banks may now operate in Kuwait, they are restricted to opening only one branch and are prohibited from competing in the retail banking sector. Kuwait's banking sector is regulated by the country's effective Central Bank and is comprised of Islamic, specialized, and commercial banks. With the conversion of Kuwait Real Estate Bank (KREB) in 2006, which became Kuwait International Bank (KIB), there are now three Islamic banks including Kuwait Finance House (1977) and Boubyan Bank (2004). KIB's conversion leaves one remaining specialized bank, the Industrial Bank of Kuwait. The seven commercial banks include National Bank of Kuwait (1952), Commercial Bank of Kuwait (1960), Gulf Bank (1960), Al-Ahli Bank of Kuwait (1967), The Bank of Kuwait and the Middle East (1971), Burgan Bank (1976) and Bank of Bahrain and Kuwait (1977). Bank of Kuwait & Middle East has plans to convert to an Islamic bank upon Central Bank approval.

On July 9, 2001, the Kuwaiti government announced an ambitious five-year privatization program, which closely resembled past initiatives. The plan outlined a wide range of activities, but with little detail. The first year called for privatizing some gas station outlets and part or all of Kuwait Airways (KAC), which has operated at a loss since 2000. Year two would initiate privatization of post office, telegraph, and telecommunication services. Years three and four would complete the telecommunication privatization and initiate the privatization of the Ports Authority and Public Transport Company. The fifth and final year would target the power and water sectors, as well as Kuwait's Petrochemical Industries Company (PIC). Kuwait's National Assembly has made it clear that any privatization program will have to insulate consumers from significant rate increases and protect the jobs of Kuwaiti citizens. Little of the 2001 five-year plan has been implemented. A law to privatize KAC, which continues to operate at a significant loss and now faces direct local competition from the new, private Jazeera Airways, was finally approved by the Parliament in January

¶2008. Under the law, KAC will be transformed into a private company within the next two years after two independent international auditors have valued the company's assets. Thiry-five percent will be sold to a core investor, which will be the local or foreign company making the highest bid. Forty percent will be sold to Kuwaiti citizens through an initial public offering, government institutions will retain 20 percent, and 5 percent will be distributed equally among KAC employees. Forty-two percent of the new company's employees must be Kuwaitis whose minimum salaries will be set by the government. Another private airline, Al-Wataniya, was licensed and formed in 2005, but has not yet begun operations. Both mobile telephone companies in Kuwait are private, with the Government holding significant minority interest, and the Ministry of Communication still sets tariffs, which are high. Qatar's state owned Qtel purchased a majority stake on one of the two mobile phone companies, Wataniya, in March 2007. In November 2007, the Kuwaiti government granted a license for a third mobile telecommunications company. The new company will be 26 percent owned by Saudi Telecom, which was the highest bidder in a government auction. The government will retain a 24 percent share, and the remaining 50 percent will be sold to Kuwaiti citizens in an initial public offering expected in February 2008. None of the other communication services have yet been privatized, though privatizing landlines has been discussed for several years. The ports and transport sector have not been privatized either. The energy and power sector has seen the most progress in privatization. Eighty of the 120 government-owned gas stations have been privatized, with plans to privatize the remaining forty. The outcome will be three competing gas station companies, with gas still subsidized by the government and set in a price range. The government-owned lubrication oils plant was privatized in 2004 as were the coke smelter operations. Kuwait's Petrochemical Industries Corporation (PIC) is now operating a joint private venture with Dow Chemicals called Equate, and the operation has proven to be a successful, profitable model of both privatization and foreign investment. On the heels of Equate's success, Dow and PIC have formed two more ventures which have already been tendered: a second olefins plant and an aromatics facility which are both under construction and due to come online in 2008 and 2009 respectively.

Build, Operate and Transfer (BOT) projects are gaining increasing acceptance in Kuwait, with BOT projects proposed in the power, wastewater, real estate development and transport sectors. After nearly four years of deliberation, the Sulaibiya Waste Water Treatment BOT contract was signed in May 2001. The winning consortium, which included U.S. firms, projected revenues of US $390 million over 10 years. The project, which was commissioned in 2004, now processes 50 million gallons of wastewater daily to be used for

irrigation.

A new BOT law was approved by the Parliament in January 2008 after BOT projects came under intense scrutiny by the State Audit Bureau in late 2006 for alleged violations and several contracts were cancelled. The new law establishes a high commission for state properties and bans any government institution from allocating state land to any project without the approval of the new commission. It also stipulates that new companies will be established to implement major projects on state land with a 40 percent share sold in an auction to an investor (presumably a local holding company), 50 percent sold to Kuwaiti citizens in an IPO, and the remaining 10 percent sold to the local or foreign company implementing the project. The law limits the term of BOT contracts to 30 years with the exception of "special" projects, which can continue for up to 40 years.

There have been a number of real estate BOT projects by privately owned Kuwaiti companies. The first-class US $132 million Sharq Mall, owned by the National Real Estate Company, contains retail outlets, restaurants, theaters, and entertainment concessions. More recently, the Fifth Waterfront Development Project constructed Marina Mall in 2002. This US $162 million BOT is owned by the United Realty Company and features high-end retail, eating, and entertainment outlets. A future BOT is planned for a central incinerator in the Shuaiba Industrial Area, a project that

stipulates foreign participation with at least 25 percent equity.

Foreign-owned firms and the foreign-owned portions of joint ventures are the only businesses subject to corporate income tax, which applies to both domestic and offshore income. In December 2007, Kuwait's Parliament approved a new tax law to reduce the tax rate on foreign companies from 55 percent to 15 percent to attract more foreign investment. The new 15 percent tax rate will be applied as a flat tax on the annual net profits of foreign companies, unlike the previous system which incorporated a series of tranches that progressively reached a maximum of 55 percent. Capital gains on stock market investments will be exempt as will the profits of Kuwaiti distributors of foreign goods. New foreign investors can be exempted from all taxes for up to 10 years under the new Direct Foreign Capital Investment Law.

Kuwaiti firms are not subject to the corporate income tax, but those registered on the Kuwait Stock Exchange (shareholding companies) are required to contribute 2.5 percent of their national earnings to the Kuwait Foundation for the Advancement of Science (KFAS). The National Employment Law levies an additional 2.5 percent tax that will fund a program granting Kuwaitis working in the private sector the same social and family allowances provided to Kuwait's government workers. Kuwait levies no personal income tax.

Tax exclusions -- besides those offered under the new Direct Foreign Capital Investment Law -- for business expenses are limited, and Kuwait's tax code is often ambiguous. For example, deductions are only three percent for agent commissions and head office expenses (mainly for turnkey supply and installation-type contracts). The most significant tax ambiguity exists in terms of defining foreign companies' taxable presence in Kuwait, and several foreign firms are engaged in ongoing disputes over their tax liabilities.

The licensing authority of the Ministry of Commerce and Industry screens all proposals for direct foreign investment. In the past, this authority has encouraged high-tech industries over sectors viewed to be saturated, such as the hotel industry. The Foreign Capital Investment Committee (FIC), chaired by the Minister of Commerce and Industry and including representatives from the private and public sectors, will authorize investment incentives put forth under the new Foreign Investment Law on a case-by-case basis. Foreign companies have reported numerous delays in gaining authorization, some waiting up to 18 months for approval.

On July 26, 1992, the Council of Ministers of the State of Kuwait established the Counter Trade Offset Program through the issuance of Decision No. 694, which stipulates that all Foreign Contractors who meet certain criteria should participate in the Counter-Trade Offset Program.

In January 2002, the Kuwaiti government transformed its offset program into a mechanism for promoting foreign investment in Kuwait. The program was briefly suspended in September 2004 in order to study its effectiveness, but in August 2005 the Ministry of Finance announced that Kuwait would reactivate its offset regime for both civil and defense contracts. In April 2006, Kuwait established the National Offset Company to manage, enforce and review all offset proposals. The company is designed to be a one-stop shop for all matters related to offsets. On October 24, 2007, the Company launched "Offset Fund", with variable capital up to KD 1 billion.

Offset obligations are applied to military contracts of a value equal to or above KD3 million (about $11 million), civil/government contracts of a value equal to or above KD10 million (about $36.5 million) and oil/gas contracts. Oil and gas exploration and production contracts are excluded from the offset program. Offset obligations amount to 35 percent of contract value with offset multipliers being established to target investment into determined sectors of the Kuwaiti economy. The foreign contractor will be subject to an unconditional financial guarantee equal to 6 percent of the contract value.

CONVERSION AND TRANSFER POLICIES

After 27 years of linking the Kuwaiti dinar (KD) exchange rate to a basket of currencies, Kuwait decided to peg the dinar to the US dollar under a flexible peg from the beginning of 2003. The move was in preparation for the adoption of a single GCC currency in 2010. On May 20, 2007, the Central Bank of Kuwait (CBK) announced that, based on the Council of Ministers' approval, the determination of the exchange rate of the Kuwaiti Dinar (KD) against the US Dollar would be based on a basket of major world currencies reflecting the foreign trade and financial relations of the State of Kuwait, and in a similar way to the policy applied before January 5, 2003. GOK cited inflationary pressures due to a weak dollar as the reason for unpegging the Kuwaiti Dinar from the US Dollar.

There are no restrictions on current or capital account transactions in Kuwait beyond the requirement that all foreign exchange purchases be made through a bank or licensed foreign exchange dealer. Equity, loan capital, interest, dividends, profits, royalties, fees and personal savings can all be transferred in or out of Kuwait without hindrance. Under the current Foreign Investment Law, investors are also permitted to transfer all or part of their investment to another foreign or domestic investor.

*Source: Central Bank of Kuwait, May 2007.

EXPROPRIATION AND COMPENSATION

There have been no recent cases of expropriation or nationalization involving foreign investments in Kuwait. Nevertheless, as a safeguard, the Direct Foreign Capital Investment Law guarantees against expropriation or nationalization except for the public benefit in accordance with existing laws; in this case, compensation will be provided without delay for the "real economic value of the project at the time of expropriation." When foreign companies were nationalized in the past, as with Kuwait's oil industry in the 1970s, foreign interests were compensated promptly and effectively.

DISPUTE SETTLEMENT

The Foreign Investment Law stipulates that Kuwaiti courts alone are responsible for adjudicating any disputes involving a foreign investor and other parties, although arbitration is permitted. Few contracts in Kuwait contain clauses specifying recourse to traditional commercial and political arbitration. According to the Central Bank of Kuwait, the Kuwaiti judicial system recognizes and enforces foreign judgments only when reciprocal arrangements are in place. Kuwait is a signatory to the International Center for the Settlement of Investment Disputes (ICSID, i.e. the Washington Convention). There have been no investment disputes involving American firms in Kuwait in over five years; commercial disputes are more common. In both cases, the slow pace of Kuwait's legal system often frustrates American claimants.

Kuwait has a developed legal system and a strong trading history. It has a civil code system influenced by Islamic law. As a traditional trading nation, Kuwait's judiciary is familiar with international commercial laws. Kuwait has been a GATT member since 1963 and has signed the WTO agreement. Kuwait, however, is not a signatory to the WTO Government Procurement Code.

A feature of Kuwaiti law which U.S. business should be aware of is the application of travel bans which may be applied against individuals who have civil or criminal cases registered against them. The ban prevents individuals from departing Kuwait until the pending matter is settled or acceptable guarantees are offered. Former Kuwaiti business partners involved in disputes with U.S. businesses have managed to have travel bans imposed on U.S. partners for allegedly violating Kuwaiti civil law. Though very infrequent, such cases highlight the need to take extra care before entering into long-term business relationships in Kuwait.

PERFORMANCE REQUIREMENTS/INCENTIVES

Government Procurement Requirements

Law No. 37 of 1964 (Articles 43 and 44) specifies the use of local products when available and prescribes a 10 percent price advantage for local firms in government tenders.

Boycotts

In June 1993, Kuwait publicly announced its decision to end enforcement of the secondary and tertiary Arab League boycotts of Israel. Although there are occasional reports that some tender requests contain boycott clauses reportable under U.S. anti-boycott laws, these usually result from clerical errors or the use of outdated forms. Kuwait maintains an open boycott office in its Customs Department, and has stated that it will wait for Arab League action before eliminating the primary boycott of Israeli-owned companies and goods produced in Israel.

Shipping Requirements

The Kuwaiti government has insisted that cargoes for government projects originating in U.S. ports will no longer be prevented access in favor of the United Arab Shipping Program.

Participation in Research and Development

There are no specific restrictions on foreign participation in government-financed or subsidized research and development, but little activity of this kind has occurred to date. The Kuwait Institute for Scientific Research (KISR) has expressed interest in working with foreign firms. The government would welcome programs that provide expertise unavailable locally, but these are likely to be evaluated on a case-by-case basis. Both KISR and the Ministry of Health have entered into discussions with MIT, Harvard, and Johns Hopkins about prospective research partnerships.

Visa and Work Permit Requirements

Kuwait has a stringent visa regime and most work permits require a local sponsor. The Foreign Investment Law, however, may redress this problem for new investors. Reciprocal changes between the U.S. and Kuwait--particularly the introduction of a 10-year multiple entry visa--have benefited U.S. business travelers. Visa requirements for citizens of 34 nations, including the United States, were relaxed in 2004 allowing for application for a visa upon arrival at the airport. However, investors should be aware that as of August 2006, persons entering on tourist visas will no longer be able to convert to work permits without first leaving the country. Foreign-born U.S. citizens, especially those of Middle Eastern descent, sometimes experience difficulties with visa and residency applications. Any problems experienced by potential U.S. visitors should be referred to the American Embassy or to the Bureau of Consular Affairs, Department of State.

RIGHT TO PRIVATE OWNERSHIP AND ESTABLISHMENT

Rights to private ownership and establishment are respected in Kuwait, although foreigners face selected restrictions. Licenses from the Ministry of Commerce and Industry are required for the establishment of all new companies, and government authorization is required for any incentives offered by the Foreign Investment Law. As stated above, foreign ownership is restricted or prohibited in some sectors of the economy, and non-GCC citizens may not own land in Kuwait.

Kuwaiti law severely restricts the types of collateral to which creditors may have recourse in the event of default by a borrower. Banks may not foreclose on residential real estate property or personal possessions in the event of default, although they may sue the borrower for the balance due under the loan contract. Borrowers typically pledge a portion of their future severance benefits as collateral for a bank loan.

TRANSPARENCY OF THE REGULATORY SYSTEM

Kuwait has not developed effective antitrust laws to foster competition, and its bureaucracy often resembles that of a developing country. Kuwait's open economy has generally promoted a competitive market. When government intervention occurs, however, it is usually to the benefit of Kuwaiti citizens and Kuwaiti-owned firms.

EFFICIENT CAPITAL MARKETS AND PORTFOLIO INVESTMENT

Kuwait has a free, but inefficient, capital market where credit is allocated on market terms. Foreign investors can obtain credit through local banks. With the help of government subsidies, the financial markets -- and particularly the commercial banks -- operated throughout the 1980s primarily to collect funds for the re-lending to favored customers. Payment discipline was lax and real economic losses common. Under a bank stabilization program introduced in 1992, the Central Bank of Kuwait purchased all of the outstanding domestic credits of Kuwait's commercial banks while eliminating all guarantees for profits, equity, and liabilities other than the banks' deposit liabilities. Henceforth, all losses would stay with the banks, which would be responsible for the management of all their assets and liabilities. In addition, the Central Bank improved bank supervision, resulting in a fairer and more efficient distribution of credit throughout the Kuwaiti banking system. Each of Kuwait's ten commercial banks reported continued earnings growth in 2007.

BANK ASSETS
Kuwait's banks have not yet released their 2007 annual reports. The assets of Kuwait's commercial banks on December 31, 2006 were: (in '000s)

BANKKD (million)U.S. $ equivalentNational Bank of
Kuwait7,898.30028,825.91Kuwait Finance
House6,313.79123,043.03Gulf Bank4,059.95114,817.34Commercial
Bank of Kuwait2,917.23310,646.84Al-Ahli
Bank2,424.5268,848.64Burgan Bank2,210.2158,066.48Bank of
Kuwait and the Middle East1,929.4067,041.63Bank of Kuwait &
Bahrain1,616.2585,898.75Kuwait International
Bank803.5572,932.69Boubyan
Bank504.3391,840.65TOTAL30,677.576111,961.96
(US $1 equals KD 0.274 as of December 11, 2007 - CBK)

The quality of local banks varies from blue chip, world-class to weak. Some bank assets have been non-performing in the past. The balance sheets of some local banks are heavily weighted toward lower-yielding government bonds. Legal, regulatory, and accounting systems are opaque but are generally consistent with international norms. The Central Bank of Kuwait requires annual reports from
uwait requires annual reports from
local banks to meet international accounting standards. U.S. businesspeople are advised to seek local legal and financial advice for complicated investments and transactions.

There are few defensive measures to protect against hostile takeovers, which are rare in Kuwait. There is no evidence of private sector or government efforts to restrict foreign participation in industry standards-setting consortia or organizations. U.S. suppliers often have trouble, however, complying with specifications that are technologically-tailored to other (usually European, especially U.K.) suppliers. In addition, American suppliers' preference for turnkey projects often does not mesh with Kuwait's preference to split projects into a series of separately-tendered smaller projects.

Finally, U.S. investors should be aware that family, clan, and tribal ties throughout the business community and government can restrict foreign participation, investment, and control of domestic enterprises. Kuwait is a very big small town.

POLITICAL VIOLENCE

Politically Motivated Damage to Projects and/or Installations

With the potential for terrorist actions throughout the Persian Gulf region still high, the Government of Kuwait continues to strengthen domestic counterterrorism measures. There have not been any incidences of terrorism in Kuwait since January 2005, and the government has aggressively pursued convictions against members of a local terrorist cell involved in confrontations with Kuwait security forces in January 2005. Kuwait also increased security around key oil installations after Al-Qaeda threatened to attack Gulf oil facilities.

CORRUPTION

The often-lengthy procurement process in Kuwait occasionally results in accusations of attempted bribery or the offering of other inducements by foreign bidders. This is a crime in Kuwait and there are currently several investigations and trials underway involving current or former government officials accused of malfeasance. There have been no convictions for bribery, however, since the end of the Gulf War. In 1996, the government passed Law No. 25, which requires all companies securing contracts with the government valued at KD 100,000 (US $364,963.5) or more to report all payments made to Kuwaiti agents or advisors while securing the contract. The law similarly requires entities and individuals in Kuwait to report any

payments they received as compensation for securing government contracts.

BILATERAL INVESTMENT AGREEMENTS

Kuwait has signed investment agreements with Germany, France, Italy, Russia, China, Romania, Poland, Hungary, Turkey, Malaysia, Pakistan, Switzerland, Malta, Finland, Ethiopia, Croatia, Tajikistan, Austria, Bulgaria, Kazakhstan, Morocco, Mongolia, the Czech Republic, Japan, UK, Egypt, Sudan and Syria. In the past few years, Kuwait has signed a bilateral investment agreement with Pakistan and a free trade agreement (FTA) with Jordan. Kuwait has initiated agreements on bilateral investment with Denmark, Belgium, the Netherlands, Thailand, Ukraine, Latvia, Lithuania, Lebanon, Bosnia/Herzegovina, and India. Kuwait began talks with Singapore on a Free Trade Agreement in December 2004.

Trade and Investment Framework Agreement

Kuwait signed a Trade and Investment Framework Agreement (TIFA) with the United States in February 2004. The TIFA is the first step in developing economic reform and trade liberalization criteria to strengthen the U.S. - Kuwait economic relationship and to work toward an eventual Free Trade Agreement. At the first bilateral TIFA Council meeting, held in May 2004 in Washington, D.C., it was agreed that the TIFA process would provide for periodic technical discussions. Several areas in particular stood out as needing further attention: intellectual property rights (IPR), standards-related issues, taxation, and service and investment requirements. Technical experts on both sides continue to work on these areas. Technical discussions took place in February 2006, followed by a formal TIFA Council meeting in September 2006 in Washington, D.C, and another round of technical discussions in Washington in June 2007. While Kuwait has made notable progress on IPR protections (including an upgrade to the Watch list on the 2005 Special 301 Report), Kuwait's taxation practices and standards regime continue to be significant problems.

OPIC AND OTHER INVESTMENT INSURANCE PROGRAMS

In 1989, Kuwait concluded an agreement with the U.S. on investment guaranty programs, which facilitated the extension of programs from the Overseas Private Investment Corporation (OPIC) to Kuwait. Kuwait is also a member of the Multilateral Investment Guarantee Agency (MIGA). Currently there are no OPIC programs in Kuwait.

LABOR

Kuwait has a diverse labor force. Kuwaiti nationals occupy most of the top management positions in the private and government sectors. Due to a welfare system that includes guarantees for government jobs, unemployment among Kuwaitis is less than five percent, but it is rising as a result of a growing influx of young Kuwaitis into the labor force (20,000 to 25,000 annually). The new entrants are reluctant to enter the private sector and cannot be absorbed by the government, where underemployment remains a serious problem. Kuwaitis are outnumbered in the work force by expatriate laborers of diverse backgrounds. While there are a number of American and Western European workers in Kuwait, particularly in high-skilled positions, the vast majority of expatriate workers are low paid laborers from other Middle Eastern countries, South Asia, and the Philippines. Prior to the Gulf War (1991), Palestinians occupied many of the country's middle-management positions. Since the war, workers of other nationalities, often Egyptians or South Asians, have filled most of these positions. Since liberation, the Government of Kuwait has adopted inconsistent policies intended to limit and discourage growth of the resident expatriate population. The government has instituted a quota system on work permits designed to protect workers by preventing Kuwaitis from importing unnecessary workers and then leaving those workers on the street. Unskilled foreign workers are restricted from transferring from one sponsor to another within the private sector for a minimum of two years, but college graduates may transfer after one year. The government has also levied new fees on expatriate workers and their families in order to raise the cost of employing foreign workers. At the same time, however, the government has reduced the minimum salary required for expatriates (in some business categories) to be eligible to bring their dependents to Kuwait, lowering it from 400 KD a month to 250 KD a month.

Kuwaiti workers have the right to organize and bargain collectively, but Kuwaiti law prevents the establishment of more than one union per functional area or more than one general confederation. Foreign workers, who constitute the vast majority of the work force, are permitted by law to join unions only as non-voting members after five years of work in the particular sector the union represents. The right to strike is also recognized for private sector workers, although provisions calling for compulsory negotiation and

arbitration in the case of disputes limit that right. Kuwaiti labor law prohibits anti-union discrimination.

Separate Kuwaiti labor laws set work conditions in the public and private sectors, with the oil industry treated separately. Forced labor is prohibited and the minimum age for employment is 18 years in industrial or dangerous jobs. Youth as young as 14, however, may work part-time in some non-industrial positions, and are allocated more breaks than adults. A two-tiered labor market ensures high wages for Kuwaiti employees while foreign workers, particularly unskilled laborers, receive substantially lower wages. In the private sector, the minimum wage is 40 KD (US $145.98)per month, in the public sector the current effective minimum wage is KD 250 (US $912.41) per month for Kuwaiti bachelors and KD 325 (US $1,186.13) per month for married Kuwaitis, plus KD50 (US $182.48) for each child--compared to KD 90 (US $328.47) for non-Kuwaitis. The basic labor law also limits the workweek to 48 hours, provides for a minimum of 14 days of leave per year, which increases to 21 days after five years in the same job, and establishes a compensation schedule for industrial accidents. However, the law is inconsistently enforced and disputes over the payment of salaries and contract-switching are common, especially among unskilled workers. Current labor laws do not apply to domestic servants. The State Department's annual Human Rights Report and Trafficking in Persons Report highlight the vulnerability of domestic servants to exploitation. In 2006, the Ministry of Interior implemented a new mandatory contract for all domestic workers that specifies daily, weekly, and annual rest periods, although it does not specifically limit working hours. New regulations also outlaw the passing administrative fees to workers. These new rules became effective October 1, 2006, so effective enforcement is still an open question.

The International Labor Organization's (ILO) Committee of Experts

has reiterated its longstanding criticisms of the discrepancies between the Kuwaiti Labor Code and ILO Conventions 1, 30, and 87 regarding hours of work and freedom of association. Areas criticized by the ILO include the prohibition to establish more than one trade union for a given field; the requirement that a new union have at least 100 workers; the regulation that workers must reside in Kuwait for five years before joining a trade union; the denial of the right to vote and to be elected for foreign trade unionists; the prohibition against trade unions engaging in any political or religious activity; and the reversion of trade union assets to the Ministry of Social Affairs and Labor in the event of dissolution. A new labor law, which would award private sector workers more benefits, establish a minimum wage, and broaden rights to establish unions has been endorsed by the Council of Ministers but awaits parliamentary approval.

On June 12, 2007, National Assembly ratified a law that bans women from working during the hours 20:00-0700, except for those working in the medical sector. This law issued by Amiri Decree No. 52/2007, effective June 15, 2007, with consensus approval from conservative and Islamist MPs, exempts women working in hospitals, clinics, private therapy clinics, and any other institutions approved by the Minister of Social Affairs & Labor.

The law also bans women from working in jobs that are hazardous, rough, and damaging to health. In addition, the law bans women from working in "immoral jobs that abuse women's femininity" and in places that exclusively serve men.

The Ministry of Social Affairs & Labor will assign officers to enforce this law. These Officers will have the right to conduct raids on public places and stores, seize violators, and report and refer them to concerned authority.
The law stipulates a minimum penalty of 300 USD and a maximum penalty of stated the following punishment applied to violators:
- USD300 to 1500
- Shutting down the store for one month period.

FOREIGN TRADE ZONES AND FREE PORTS

In July 1995, the National Assembly passed Law No. 26 authorizing the Ministry of Commerce and Industry to establish free trade zones in Kuwait. In May 1998, the privately-owned National Real Estate Company signed a contract with the Ministry to operate, manage, and market the 50 square-kilometer Kuwait Free Trade Zone (KFTZ) at Shuwaikh port, which was inaugurated in November 1999. Many restrictions faced by foreign firms, such as corporate taxes, do not apply to offices or plants within the KFTZ. Some 90 percent of space within the KFTZ has been leased; the majority of firms operating in the zone are Kuwaiti.

On November 26, 2006, Cabinet Council issued Resolution No. 507/2006 terminating KNREC's contract and suspending all its activities at the FTZ area. To date, KNREC is appealing this decision in Kuwaiti

courts but has not received a judgment to revoke the said resolution.

FOREIGN DIRECT INVESTMENT STATISTICS

Kuwaiti public investments abroad consist of portfolio investments held by the Kuwait Investment Authority, direct investments of other government entities, as well as those held by private Kuwaitis. In July 2007, the Finance Minister publicly announced that KIA's assets under management were valued at $213 billion. Details about the composition of both KIA and non-KIA investment portfolios, such as Kuwait Petroleum Corporation's reserve fund, remain murky. The holdings of private Kuwaitis, in both direct and portfolio investments, are believed to exceed $100 billion.

Other major investors in Kuwait include Dow Chemical which has a 45 percent stake in the US $2 billion Equate project, a petrochemical joint venture with the Petrochemical Industries Company (PIC) that began operation in 1997. (Although the U.S.-owned Saudi Arabian Chevron is headquartered on the Kuwait side of the PNZ, it operates

under a Saudi concession for Saudi Arabia's share of the onshore oil resources in the PNZ due to expire in 2009.)